

JUL 19 2007

REMARKS

ALLOWED CLAIMS

Applicant notes with gratitude the allowance of  
5. claims 1-4.

CLAIM REJECTIONS UNDER 35 USC §102

Claims 5, 9, 10 and 12 stand rejected under 35 USC  
§102 as being anticipated by U.S. Patent 6,328,038 issued to  
10 Kessler ("Kessler"). Amended claim 5 recites that in an  
unfolded state, said nose covering region abuts each of said  
pair of wings. This is certainly not the case for the device  
of Kessler, where central nose portion 24 and wing portion 25  
do not abut each other at the putative cuts (parallel edges  
15 24). Additionally, paragraph (a) of amended claim 5 clarifies  
the shape of the nose covering and the nostril apertures. The  
device of Kessler does not have nostril apertures that are  
sized and spaced apart so as to align with human infant  
nostrils.

20 Paragraph (a) of claim 9 also recites the features  
of the nose covering portion that are missing from Kessler.  
Moreover, the recitation of the release liner is part of the  
genius of the achievement of the inventor, who has taken an  
item that was previously made to order by hospital personnel,  
25 and has created a product that can be mass produced and  
distributed. This relieves hospital personnel of a  
time-consuming task. Adding the release liner was part of  
this process, which all depended on the keen insight that the  
CPAP seals could be mass produced. Claims 10 and 12 are  
30 patentably distinct over the prior art because they depend on  
claim 9, which is so distinct.

## CLAIM REJECTIONS UNDER 35 USC §103

Claims 6-8, 11 and 13-16 stand rejected under 35 USC §103 as being unpatentable over Kessler. Paragraph (a) of amended claim 6 is distinguished over Kessler in the same way as is paragraph (a) of claim 5. Moreover, as noted in the specification at page 6, lines 17-32, making the seal semi-transparent is a deliberate choice that required the trade-off of accepting a clean, but not sterile, seal. Also, this was based on the recognition of the importance of visual inspection of the tissue under the CPAP seal. This represents an importance advance, because as noted in the cited text, the prior art CPAP seals, which were cut out of wound dressing, were opaque. Accordingly, the CPAP seal of claim 6 addresses a long felt need in the industry that had previously been left unaddressed. This was done through the insightful recognition that by mass producing the CPAP seals the added benefit of transparency could be realized, because unlike wound dressing, a CPAP seal is not required to be sterile.

Paragraph (a) of claim 8 is distinguished over Kessler just as is paragraph (a) of claim 5. Moreover, similar to the release liner of claim 9, the sanitary package of claim 8 is part of the rendering of a previously made to order item into a mass produced item, with all of the attendant benefits. Accordingly claim 8 is patentably distinct over the prior art.

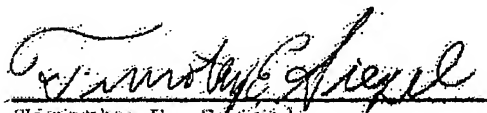
With respect to claim 14, it is important to note that Kessler does not disclose a nasal CPAP seal. No seal is created by Kessler's device. The method of selling the seals in a variety of sizes is one more aspect of the non-obvious innovation of mass producing and distributing that which has been heretofore made to order by hospital staff. For years, hospital staff have struggled to produce infant nasal CPAP seals from wound dressing, when required. No doubt many

infant injuries were caused by the opaque seals that resulted from the opaque wound dressing. Moreover, there has no doubt been a variation in the quality of made-to-order CPAP seals, from the very good and well shaped, to the poorly shaped seal made by a nurse inexperienced in forming CPAP seals. Yet nobody thought to overcome these problems by mass producing CPAP seals and selling them in a variety of sizes. This step represents an important innovation that has benefited doctors, nurses, hospitals and, most importantly of all, prematurely born infants. It deserves patent protection.

The remaining claims are patentable because each depends on a patentable base claim.

It is respectfully submitted that the claims are now in condition for allowance. Reconsideration and early notice of allowance are respectfully solicited.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE

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I hereby certify that this correspondence is being sent  
via facsimile to Examiner Shumaya Ali at the United States  
Postal Service at fax no. 571-273-8300 on July 19, 2007.

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Signed: 

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